

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

J. MICHAEL CHARLES; MAURICE W.	)	C. A. NO. 05-702 (SLR)
WARD, JR.; and JOSEPH I. FINK, JR., on	)	(Lead Case)
behalf of themselves and all others similarly	)	
situated,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
PEPCO HOLDINGS, INC; CONECTIV, and	)	
PEPCO HOLDINGS RETIREMENT PLAN,	)	
	)	
Defendants.	)	

**STIPULATION AND [PROPOSED] ORDER RE:  
DEFENDANTS' MOTION FOR LEAVE TO FILE  
AN EARLY SUMMARY JUDGMENT MOTION**

WHEREAS, this Court's scheduling order entered on August 8, 2006 provided for all discovery to conclude by July 25, 2007 and for summary judgment motions to be filed by August 22, 2007 (D.I. 41, ¶¶ 2(d), 5);

WHEREAS, plaintiffs' motion for class certification is pending and being briefed (D.I. 67-69, 72-73, 78), with plaintiffs' reply due on March 9, 2007, subject to extension if plaintiffs conclude that additional discovery is necessary following a review of defendants' response (D.I. 41, ¶ 3(b));

WHEREAS, defendants have filed a motion seeking leave of Court to file an early summary judgment motion, in which they request that the Court defer disposition of class certification issues and authorize an early summary judgment motion to be filed on April 1, 2007 (D.I. 74);

WHEREAS, plaintiffs have considered defendants' request for leave to file an early summary judgment motion and are willing to stipulate to an early summary judgment procedure under the terms and conditions set forth in this Stipulation;

NOW THEREFORE, the parties hereby Stipulate and Agree (subject to Court approval), as follows:

1. The briefing and disposition of plaintiffs' motion for class certification is suspended pending disposition of defendants' motion for summary judgment.
2. Defendants shall produce data on the interest credits, pay credits and transition credits applied to the individual plaintiffs' accounts for the plan year ended December 31, 2006 as soon as practicable.
3. Defendants shall produce James Kremmel as designee pursuant to plaintiffs' previously served notice of deposition pursuant to Rule 30(b)(6) at a mutually convenient date, time and location, and Mr. Kremmel shall also be deposed on his own personal knowledge concerning matters relevant to Plaintiffs' non-stayed claims.
4. Defendants will not object to the service of Third Party Subpoenas for deposition testimony upon Defendants' former employees Donald Cain and Benjamin Wilkinson.
5. Fact discovery relevant to summary judgment shall conclude on April 15, 2007, unless extended for good cause shown.

6. This Stipulation shall be without prejudice to the right of either party to request additional discovery or, should the parties be unable to resolve any dispute through good faith negotiation, to seek an Order from the Court directing that further discovery take place or that further discovery be precluded, or provided under specific conditions.

7. Defendants shall file their motion for summary judgment on May 1, 2007. No summary judgment motion may be filed more than 10 days from that date without leave of Court. To the extent that defendants rely upon expert evidence to support their motion for summary judgment, they shall furnish the disclosures required under Fed. R. Civ. P. 26(a)(2) with respect to their experts contemporaneously with their summary judgment motion.

8. Plaintiffs shall file their response to defendants' motion for summary judgment and any cross-motion for summary judgment on or before June 12, 2007. To the extent that plaintiffs rely upon expert evidence to oppose defendants' motion for summary judgment or to support a cross-motion, they shall furnish the disclosures required under Fed. R. Civ. P. 26(a)(2) with respect to their experts contemporaneously with the filing of their summary judgment opposition and any cross-motion.

9. Defendants shall file their reply in support of their summary judgment motion and their opposition to any cross-motion on or before July 12, 2007. To the extent that defendants rely upon additional expert evidence in connection with their reply, they shall furnish the disclosures required under

Fed. R. Civ. P. 26(a)(2) with respect to their experts contemporaneously with their reply.

10. Plaintiffs shall file their reply in support of any cross-motion for summary judgment on or before August 13, 2007. To the extent that plaintiffs rely upon additional expert evidence in connection with their reply, they shall furnish the disclosures required with respect to their experts under Fed. R. Civ. P. 26(a)(2) contemporaneously with their reply.

11. Following disposition of the summary judgment motions outlined above, the parties shall meet and confer to address scheduling for class certification issues and any additional discovery related specifically to class certification with respect to any claims as to which the Court does not enter judgment in defendants' favor.

Dated: February 26, 2007

**CHIMICLES & TIKELLIS LLP**

By: /s/ A. Zachary Naylor  
Pamela S. Tikellis (#2172)  
Robert J. Kriner (#2546)  
A. Zachary Naylor (#4439)  
One Rodney Square  
P.O. Box 1035  
Wilmington, DE 19899  
302-656-2500 (telephone)  
302-656-9053 (fax)

and

James R. Malone, Jr.  
(*pro hac vice*)  
Joseph G. Sauder  
(*pro hac vice*)  
One Haverford Centre  
361 West Lancaster Avenue  
Haverford, PA 19041  
610-642-8500 (telephone)  
610-649-3633 (fax)

Attorneys for Plaintiffs

Dated: February 26, 2006

**PEPPER HAMILTON LLP**

By: /s/ Phillip T. Mellet  
M. Duncan Grant (#2994)  
Phillip T. Mellet (#4741)  
Hercules Plaza, Suite 5300  
1313 Market Street  
Wilmington, DE 19899-1709  
302-777-6500 (telephone)  
302-421-8390 (fax)  
and  
Larry R. Wood, Jr.  
Kay Kyungsun Yu  
(*pro hac vice*)  
Barak A. Bassman  
(*pro hac vice*)  
3000 Two Logan Square  
18<sup>th</sup> and Arch Streets  
Philadelphia, PA 19103-2799  
215-981-4000 (telephone)  
215-981-4750 (fax)

**LITTLER MENDELSON**

Susan Katz Hoffman  
(*pro hac vice*)  
Three Parkway  
1601 Cherry Street  
Philadelphia, PA 19102  
(267) 402-3000

Attorneys for Defendants

**[PROPOSED] ORDER**

Approved and so Ordered this       day of       , 2007.

**BY THE COURT:**

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Sue L. Robinson  
Chief U.S. District Judge